

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Donald Louis Colbert, Jr., #77497-004,)	C/A NO. 2:09-848-CMC-RSC
)	
Plaintiff,)	
)	ORDER
v.)	
)	
Harry Leppin (Director of the Federal)	
Bureau of Prisons); Mildred Riveria; Anita)	
Jones; Rikantas Majauskas MD,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff's *pro se* complaint, filed in this court pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Robert S. Carr for pre-trial proceedings and a Report and Recommendation ("Report"). On April 22, 2009, the Magistrate Judge issued a Report recommending that the complaint be dismissed without prejudice and without issuance of service as to Defendant "Harry Leppin, Director of Federal Bureau of Prisons."¹ The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections and the time for doing so has expired. However, on April 29, 2009, Plaintiff forwarded a letter to the court seeking to amend "or substitute" Harrell Watts, Administrator of National Inmate Appeals. Letter at 1 (Dkt. # 17, filed Apr. 29, 2009). By order filed April 30, 2009, the Magistrate Judge granted Plaintiff's motion, and directed the Clerk to add Watts to the complaint as a defendant and to issue a summons

¹"Leppin" is more correctly identified as Harley G. Lappin.

for him based upon Plaintiff's statement in his letter that "Mr. Watts is the gentlemen [sic] who signed the denial of my appeal for surgery [sic] on January 9, 2009." *Id.*

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Defendant "Harry Leppin" is dismissed from this action without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
May 20, 2009

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